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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/699,963	11/05/1999	Angela Masson	MASSON-001-US	4776
62008	7590	08/18/2009	EXAMINER	
MAIER & MAIER, PLLC 1000 DUKE STREET ALEXANDRIA, VA 22314			TO, TUAN C	
			ART UNIT	PAPER NUMBER
			3663	
			MAIL DATE	DELIVERY MODE
			08/18/2009	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

09/699,963

**Applicant(s)**

MASSON, ANGELA

**Examiner**

TUAN C. TO

**Art Unit**

3663

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 May 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 20-47, 60, 68, 69, 71 and 73-77 is/are pending in the application.
- 4a) Of the above claim(s) 20-47 and 60 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 68, 69, 71 and 73-77 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 February 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notices of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 68, 69, 71, and 73-77 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

It is noted that the independent claim 68 is currently including the added steps (c), (e), (f), and (g). The applicant currently adds the steps: (c) receiving information..., (e) updating information..., (f) calculating..., and (g) outputting the adjusted second flight plan.... However, there is no disclosure to explain how those steps can be performed using the claimed transportable laptop computer.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 68, 69, 71, and 73-77 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As to claim 68, the [statements of intended use or field of use, "capable of"] clause provides language that suggests or makes optional but does not require steps to be performed or does not limit the scope of a claim or claim limitation (MPEP § 2106(II,C)). Accordingly, the metes and bound of the claim can not be ascertained by one having ordinary skill in the art.

Claims 69, 71, and 73-77 which are dependent on claim 68, would be rejected as well.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

Claims 68, 69, 71, and 73-77 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cline et al. (US 4642775).

Regarding claim 68, Cline et al. discloses a system/method of providing a portable computer for use by a aircraft aviation professional (see Cline et al, abstract) comprising: a portable computer (40) to be carried by an pilot to and from and within an aircraft and airport (abstract, figure 1, portable computer 40 is carried by a pilot), the portable computer (40) is provided to pilot for performing variety of tasks including: processing flight information (column 5, lines 20-24), manipulating flight related data to aid in flight decision-making processes resulting in solutions to flight related mathematical computations and runway selections and aircraft operating parameters and procedure (column 7, lines 44-51), calculating pilot fatigue limits and scheduling issues and fuel computations (column 6, lines 56-68; column 1-10), and providing data displays to the pilot (figure 1, column 7, lines 36-51), display unit 42 displays variety of information and data to pilot). The pilot can perform the task of loading aircraft and flight related data such as flight plan, weather information, aircraft crew schedule, aircraft maintenance information, aircraft load weight, and balance, and flight passenger concerns into said portable computer (40) using keyboard (44) for entering data into the computer (40) (column 5, lines 20-24; column 8, lines 1-13).

It is important to note that Cline et al. includes all necessary components to implement the desired use of the claimed method including the additional steps (e), (f), and (g).

As to claim 69, Cline et al. teaches that the flight plan and weather information stored on the disk (54) can be loaded into the computer (40). Thus, Cline et al. inherently teaches that an aviation manual for flight operating and emergency procedure, and charts for an off-line emergency airport stored on a floppy disk can be loaded into the computer (40).

As to claim 71, Cline et al. teaches that the computer (40) is a knee-top ergonomic style unit (see figure 1).

As to claims 73-77, Cline et al further discloses that the aircraft data and flight related data are inputted by the pilot can be done remotely (figure 1).

While patent drawings are not drawn to scale, relationships clearly shown in the drawings of a reference patent cannot be disregarded in determining the patentability of claims. See In re Mraz, 59 CCPA 866, 455 F.2d 1069, 173 USPQ 25 (1972).

### ***Response to Arguments***

The applicant's request for continued examination filed on 05/11/2009 has been fully considered, however, the application cannot be placed in a condition for allowance. The claims are still rejected.

***Conclusions***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan C To whose telephone number is (571) 272-6985. The examiner can normally be reached on from 8:00AM to 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Keith can be reached on 571-272-6878.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Tuan C To/

Primary Examiner

May 28, 2009

